

105 KAR 1:250. Participation of county attorney employees.

RELATES TO: KRS 78.5302

STATUTORY AUTHORITY: KRS 61.645

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation sets out the procedures for determining membership in either the Kentucky Employees Retirement System or County Employees Retirement System for each employee of a county attorney who is paid from the county attorney's delinquent tax fees, federal or state grant funds received for collection of child support or any other source of funds outside the control of the fiscal court.

Section 1. For each employee paid in whole or in part from delinquent tax fees, federal or state grant funds received for collection of child support or other funds outside the control of the fiscal court, the county attorney shall complete and submit a Form 110, Retirement System Membership Determination, dated August 1992, to the retirement office. The county attorney shall submit the form on or before the date the first contributions are reported on each employee.

Section 2. The county attorney shall determine the system in which each employee shall participate based on the following:

(1) For an employee currently participating in the County Employees Retirement System or Kentucky Employees Retirement System, the county attorney shall continue to make the required contributions for the supplementary wages to the system in which the employee is participating.

(2) For employees not currently participating in a retirement system, the employee shall participate in the Kentucky Employees Retirement System if a majority of the employee's time is spent in performing prosecutorial duties. If a majority of the employee's time is spent performing civil legal representation of the fiscal court and other county officials, the employee shall participate in the County Employees Retirement System.

(3) For those employees whose time is spent performing duties related to child support collection cases, whether criminal or civil, the employee shall participate in the retirement system which the county attorney has selected for child support enforcement employees consistent with the funding and operational methods of the county attorney's office.

(4) For purposes of this section, prosecutorial duties shall include duties and functions related to the prosecution of criminal cases in the district or circuit courts of the Commonwealth. Civil legal representation shall include duties and functions related to the representation of the fiscal court, its officers or employees or other elected county officers in any civil or administrative proceeding in state or federal courts and administrative agencies.

Section 3. Once the county attorney has determined the system in which an employee shall participate, the employee shall participate in the designated system as long as he remains an employee of the county attorney regardless of any change in the employee's duties or responsibilities.

Section 4. The form required by this administrative regulation is incorporated by reference and may be obtained from the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky, 40601, 8 a.m. to 4:30 p.m., Monday through Friday. (19 Ky.R. 1016; Am. 1339; eff. 12-9-92.)